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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,933

06/16/2005

Tomoyuki Miyake

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04/24/2009

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EXAMINER

NGUYEN, HUY THANH

ART UNIT

PAPER NUMBER

2621

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,933	<b>Applicant(s)</b> MIYAKE ET AL.	
	<b>Examiner</b> HUY T. NGUYEN	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 11-14, 16, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 5, 7-10, 15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/03/05, 6/16/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 21-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 21 directs to a recording program without specify the location of the program (See MPEP 2100).

Claim 22 directs to a medium for storing the data without specifying that the medium is a computer readable medium and the program is encoded and recorded on the medium. (See MPEP 2100).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2621

4. Claims 1-4,6,11-14,16, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al (7295756).

Regarding claims 1 and 11, Takahashi discloses a method for recording a plurality of data, at least a part of which are simultaneously received, onto a recording medium with the use of a recording apparatus (Figs. 1, 9-11, column 1) for recording the data, the method comprising the steps of:

- (a) detecting continuous vacant regions in the recording medium;
- (b) selecting, from the detected vacant regions, for each of the data, at least one vacant region having a recording capacity larger than data size of said each of the data; and
- (c) recording corresponding data onto the selected vacant regions (column 1, column 5, lines 40-55, column 6, lines 40-55), respectively.

Regarding claims 2 and 12, Takahashi teaches the method as set forth in claim 1, wherein: the recording apparatus includes temporary memory means (5) for temporarily storing partial data, which is a part of the data to be recorded onto the recording medium, and

the step (c) includes the step of:

- (d) allocating memory regions of the temporary memory means to the data, respectively, when the plurality of data are simultaneously supplied to said recording apparatus so as to be recorded.

Regarding claims 3 and 13 Takahashi teaches the method as set forth in claim 1, wherein: the recording medium has TOC information, and the continuous vacant

Art Unit: 2621

regions are obtained, in the (a) step, in accordance with the TOC information (column 5, line 62 to column 6, line 27).

Regarding claims 4 and 14, Takahashi teaches the method as set forth in claim 1, further comprising the steps of:

(e) calculating recordable data input time of each of the continuous vacant regions detected in the (a) step, which recordable data input time is time required for the data which are inputted to the recording apparatus and correspond to the vacant region; and  
(f) acquiring data input time during which the data are inputted to the recording apparatus, wherein: in the step (b), a vacant region having recordable data input time longer than the data input time is selected for each of the data in accordance with (i) the recordable data input time calculated in the step (e), and (ii) the data input time acquired in the step (f) (column 6, line 61 to column 7, line 20).

Regarding claims 6 and 16, Takahashi discloses the method as set forth in claim 1, wherein: in the step (b), the selection of the respective vacant regions for the simultaneously inputted data is carried out such that data to be recorded later is recorded onto a vacant region located in a downstream side with respect-to a vacant region for data to be recorded earlier (Fig. 9-11).

### ***Allowable Subject Matter***

5. Claims 5,8-10 15 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fukuda teaches recording data in the selected tracks of a medium.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/  
Primary Examiner, Art Unit 2621

Application/Control Number: 10/539,933  
Art Unit: 2621

Page 6